

Message

**From:** Rausch, Heidi [Rausch.Heidi@epa.gov]  
**Sent:** 2/5/2020 12:17:56 PM  
**To:** King, Carol [King.Carol@epa.gov]; Wilson, Dane [Wilson.Dane@epa.gov]  
**Subject:** RE: Petition for SDWA 1431 for Nitrate Contamination in Lower Umatilla Basin in Oregon (draft response)

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

I was

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

I'm planning on going to the sewer summit today but then am free after that to talk before the call.

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**From:** King, Carol <King.Carol@epa.gov>  
**Sent:** Tuesday, February 4, 2020 5:01 PM  
**To:** Rausch, Heidi <Rausch.Heidi@epa.gov>; Wilson, Dane <Wilson.Dane@epa.gov>  
**Subject:** RE: Petition for SDWA 1431 for Nitrate Contamination in Lower Umatilla Basin in Oregon (draft response)

Thanks Heidi. We

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

Can the three of us touch base briefly before we talk with Clarke tomorrow?

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**From:** Rausch, Heidi <Rausch.Heidi@epa.gov>  
**Sent:** Tuesday, February 04, 2020 4:49 PM  
**To:** Wilson, Dane <Wilson.Dane@epa.gov>  
**Cc:** King, Carol <King.Carol@epa.gov>  
**Subject:** RE: Petition for SDWA 1431 for Nitrate Contamination in Lower Umatilla Basin in Oregon (draft response)

So I basically looked through the entire appendix (didn't read it all, just read important parts and skimmed the rest) looking for

**Ex. 5 AC/DP**

## **Ex. 5 AC/DP**

The region did say they would look more into the appendices and contact Oregon state agencies (there are 4 that have a hand in the LUM GWMA Action Plans + other stakeholders) but they didn't have any new info the last time we talked to them (on the 29<sup>th</sup>), not sure if you were on that call. They scheduled the next call for the 13<sup>th</sup> and I thought we should probably get an answer back to this question from Kristin before then.

Heidi

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**From:** Wilson, Dane <Wilson.Dane@epa.gov>  
**Sent:** Tuesday, February 4, 2020 3:35 PM  
**To:** Rausch, Heidi <Rausch.Heidi@epa.gov>  
**Cc:** King, Carol <King.Carol@epa.gov>  
**Subject:** RE: Petition for SDWA 1431 for Nitrate Contamination in Lower Umatilla Basin in Oregon (draft response)

I remember from that call that the Region was going to look more into the data provided with the petition. Was there a follow-up conversation with the Region on their analysis?

If there was a previous email, I'm sorry that I missed it. I've been drowning in other things the last couple weeks.

Thanks,  
Dane

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**From:** Rausch, Heidi <[Rausch.Heidi@epa.gov](mailto:Rausch.Heidi@epa.gov)>  
**Sent:** Tuesday, February 04, 2020 3:29 PM  
**To:** Pollins, Mark <[Pollins.Mark@epa.gov](mailto:Pollins.Mark@epa.gov)>; Theis, Joseph <[Theis.Joseph@epa.gov](mailto:Theis.Joseph@epa.gov)>; Denton, Loren <[Denton.Loren@epa.gov](mailto:Denton.Loren@epa.gov)>  
**Cc:** King, Carol <[King.Carol@epa.gov](mailto:King.Carol@epa.gov)>; Wilson, Dane <[Wilson.Dane@epa.gov](mailto:Wilson.Dane@epa.gov)>; Speir, Jeffrey <[speir.jeffrey@epa.gov](mailto:speir.jeffrey@epa.gov)>  
**Subject:** RE: Petition for SDWA 1431 for Nitrate Contamination in Lower Umatilla Basin in Oregon (draft response)

Hello Mark, Joe and Loren,

Below is a proposed response to the question in Kristin's email from earlier today:

The state of Oregon has data on all PWSs nitrate levels and whether or not they have exceeded the MCLs for nitrate, this information is publicly available online. Also numerous studies on nitrate levels in drinking water, including a network of private wells, have been done in the Lower Umatilla Basin (LUB) since it was designated a groundwater management area in 1990. Based on a call with the region on Jan 29<sup>th</sup>

Ex. 5 AC/DP

## Ex. 5 AC/DP

On the Jan 29<sup>th</sup> call the region indicated that they would reach out to Oregon state agencies regarding this petition and

Ex. 5 AC/DP

Thank you,

Heidi Rausch  
Engineer  
U.S. Environmental Protection Agency  
OCEA-OCE-Water Enforcement Division  
202 564 3096  
[Rausch.Heidi@epa.gov](mailto:Rausch.Heidi@epa.gov)

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**From:** Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>  
**Sent:** Tuesday, February 4, 2020 12:27 PM  
**To:** Denton, Loren <[Denton.Loren@epa.gov](mailto:Denton.Loren@epa.gov)>; King, Carol <[King.Carol@epa.gov](mailto:King.Carol@epa.gov)>; Wilson, Dane <[Wilson.Dane@epa.gov](mailto:Wilson.Dane@epa.gov)>; Rausch, Heidi <[Rausch.Heidi@epa.gov](mailto:Rausch.Heidi@epa.gov)>; Speir, Jeffrey <[speir.jeffrey@epa.gov](mailto:speir.jeffrey@epa.gov)>  
**Cc:** Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>; Pollins, Mark <[Pollins.Mark@epa.gov](mailto:Pollins.Mark@epa.gov)>; Theis, Joseph <[Theis.Joseph@epa.gov](mailto:Theis.Joseph@epa.gov)>  
**Subject:** RE: Petition for SDWA 1431 for Nitrate Contamination in Lower Umatilla Basin in Oregon

We spoke to Larry about this at our meeting with him this morning. Does the region

Ex. 5 AC/DP

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Thanks.

**Kristin Buterbaugh**

Special Assistant  
OECA - Office of Civil Enforcement  
U.S. Environmental Protection Agency  
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**From:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>  
**Sent:** Friday, January 24, 2020 6:03 PM  
**To:** Denton, Loren <[Denton.Loren@epa.gov](mailto:Denton.Loren@epa.gov)>  
**Cc:** Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>; Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>; Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>; Pollins, Mark <[Pollins.Mark@epa.gov](mailto:Pollins.Mark@epa.gov)>; Theis, Joseph <[Theis.Joseph@epa.gov](mailto:Theis.Joseph@epa.gov)>; Wilson, Dane <[Wilson.Dane@epa.gov](mailto:Wilson.Dane@epa.gov)>; King, Carol <[King.Carol@epa.gov](mailto:King.Carol@epa.gov)>; Rausch, Heidi <[Rausch.Heidi@epa.gov](mailto:Rausch.Heidi@epa.gov)>; Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>; Mirza, Sabah <[Mirza.Sabah@epa.gov](mailto:Mirza.Sabah@epa.gov)>; Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Speir, Jeffrey <[speir.jeffrey@epa.gov](mailto:speir.jeffrey@epa.gov)>  
**Subject:** RE: Petition for SDWA 1431 for Nitrate Contamination in Lower Umatilla Basin in Oregon

Thank you.  
Please keep me posted.  
Susan

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**From:** Denton, Loren <[Denton.Loren@epa.gov](mailto:Denton.Loren@epa.gov)>  
**Sent:** Friday, January 24, 2020 5:10 PM  
**To:** Bodine, Susan <[bodine.susan@epa.gov](mailto:bodine.susan@epa.gov)>  
**Cc:** Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Irving, John <[Irving.John@epa.gov](mailto:Irving.John@epa.gov)>; Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>; Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>; Pollins, Mark <[Pollins.Mark@epa.gov](mailto:Pollins.Mark@epa.gov)>; Theis, Joseph <[Theis.Joseph@epa.gov](mailto:Theis.Joseph@epa.gov)>; Wilson, Dane <[Wilson.Dane@epa.gov](mailto:Wilson.Dane@epa.gov)>; King, Carol <[King.Carol@epa.gov](mailto:King.Carol@epa.gov)>; Rausch, Heidi <[Rausch.Heidi@epa.gov](mailto:Rausch.Heidi@epa.gov)>; Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>; Mirza, Sabah <[Mirza.Sabah@epa.gov](mailto:Mirza.Sabah@epa.gov)>; Shiffman, Cari <[Shiffman.Cari@epa.gov](mailto:Shiffman.Cari@epa.gov)>; Speir, Jeffrey <[speir.jeffrey@epa.gov](mailto:speir.jeffrey@epa.gov)>  
**Subject:** RE: Petition for SDWA 1431 for Nitrate Contamination in Lower Umatilla Basin in Oregon  
**Importance:** High

Susan,

This email is for your situational awareness. On January 16, 2020 a petition was sent to EPA Administrator Wheeler and Region 10 Regional Administrator Hladick, requesting that EPA invoke its emergency powers under SDWA Section 1431 to address nitrate contamination in the Lower Umatilla Basin in Oregon. This request was submitted on behalf of eight groups, including Food & Water Watch, Columbia Riverkeeper, Friends of Family Farmers, Water Watch of Oregon and the Center for Biological Diversity. WED had a preliminary call with Region 10 yesterday (1/23). The Region is still reviewing the submission, which totaled almost 1,500 pages. The petition appears largely based on information and data compiled by the state and local governments. The data shows that nitrate contamination has been a long-standing issue for this area.

In this Section 1431 petition, the groups contend that the cause of the nitrate contamination is related to concentrated animal feeding operations (CAFOs) and irrigated agriculture, and that the state's past, voluntary measures have been unsuccessful at reducing the nitrate concentration in underground drinking water sources. Based on the petitioners' letter, there are currently 13 CAFOs operating in the Lower Umatilla Basin that have been permitted to house nearly 180,000 head of cattle, producing over 4 billion pounds of manure each year. The state of Oregon estimates that 90% of the animal waste from these CAFOs is land applied.

The petitioners have argued that EPA's Section 1431 authority is necessary to address an imminent and substantial endangerment to human health, and that the state has not acted in a manner to abate the contamination. Specifically, the petitioners have requested that EPA take the following measures under its SDWA 1431 authority: (1) provide alternative water to residents whose wells or PWSs exceed the safe limits for nitrate; (2) conduct additional investigation and monitoring throughout the region; (3) issue orders to require CAFOs land applying manure or fertilizers to modify their practices to cease overburdening the area with nitrogen; (4) issue an order to prevent new CAFOs in the area until the nitrate concentrations fall below the standard; (5) investigate Oregon's BMPs for CAFO nutrient management to determine why they have been unsuccessful at protecting groundwater; and (6) determine what enforcement measures are necessary to effectively reduce the nitrogen concentrations and implement those measures.

As a reminder, SDWA does not expressly provide for a Section 1431 petition process by third-parties. WED has another call scheduled with Region 10 on January 29 to talk about possible paths forward. Please let us know if you have any questions.

Loren

Loren Denton, Chief  
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Water Enforcement Division  
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